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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/022,472

10/30/2001

Ellen M. Meyer

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04/19/2006

DUANE MORRIS, LLP

IP DEPARTMENT

30 SOUTH 17TH STREET

PHILADELPHIA, PA 19103-4196

EXAMINER

CHORBAJI, MONZER R

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,472

Applicant(s)

MEYER, ELLEN M.

Examiner

MONZER R. CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-8,10,11,13,18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-8,10,11,13,18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This final action is in response to the amendment received on 02/02/2006

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-7, 13 and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin (WO 99/46350).

With respect to claims 1 and 13, the Lin reference discloses a method for deodorizing an aqueous solution (page 1, numbered lines 6-10, page 10, numbered lines 25-30 and example 1) that includes adding an amount of 5-Chloro-2-methyl-4-isothiazolin-3-one as the organic halogen donor (page 10, table 4).

With respect to claims 6-7 and 18-19, the Lin reference teaches in table 4 of page 10 adding 0.024 percent by weight of a combination of 5-Chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one. For example, Conversion of 300 ppm to %w: $(300 \text{ ppm}) / (10,000 \text{ ppm} / \%) = 0.03 \% \text{ w}$. Thus, 0.024 % w of 5-Chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one represents 240 ppm together. For example, if 0.001 % w of 5-Chloro-2-methyl-4-isothiazolin-3-one is combined with 0.023 % w of 2-methyl-4-isothiazolin-3-one totaling 0.024 % w, then 0.001 % w of 5-Chloro-2-methyl-4-isothiazolin-3-one represents 10 ppm, which falls within the recited ranges in claims 6-7 and 18-19.

Art Unit: 1744

3. Claims 8 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox et al (U.S.P.N. 6,106,853).

With respect to claim 8, the Cox reference, which is in the art of deodorizing the atmosphere (col.1, lines 23-24, lines 54-56 and col.23, lines 50-55) of a tank (i.e., aqueous system), teaches spraying (col.6, lines 51-53) an aqueous solution (col.8, lines 10-11) of a halogenated succinimides or halogenated hydantion organic halogen donor (col.8, lines 63-67 and col.9, lines 1-7 and lines 19-21).

With respect to claims 10-11, the Cox reference teaches adding n-bromosuccinimide (col.9, line 6) and also adding 1-bromo-3-chloro-5, 5-dimethyldantoin (col.9, line 5).

Response to Arguments

4. Applicant's arguments filed on 02/02/2006 have been fully considered but they are not persuasive.

On page 4 of the Remarks section, applicant argues that, "Indeed, in accordance with the present invention, the addition of additional microbial sources would be potentially deleterious to the particular systems (e.g., paper mills, municipal waste treatment plants) to be treated." The examiner disagrees since the totality of the disclosure does not teach the explicit exclusion of other components that would materially affect the basic and novel characteristics of the claimed method. See MPEP 2111.03.

On page 5 of the Remarks section, applicant argues that, "In contrast, the present invention does not teach or contemplate the use of such combinations or the

Art Unit: 1744

use of actinic radiation to enhance its processes, as reflected in the instant claims as amended." The examiner disagrees. As mentioned above, the totality of the disclosure does not teach the explicit exclusion of other components or additional treatment steps that would materially affect the basic and novel characteristics of the claimed method. See MPEP 2111.03.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.

Art Unit: 1744

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monzer R. Chorbaji *MRC*
Patent Examiner
AU 1744
04/16/2006


GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER